

Department of Energy

§ 1023.313

basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought. The applicant must document fees and expenses as required in § 1023.312.

(d) The application may also include any other matters that the applicant wishes the Board to consider in determining whether, and in what amount, an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 1023.311 Net worth exhibit.

(a) Each applicant, except a qualified tax-exempt organization or cooperative association, must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 1023.304(f) of this subpart) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The presiding administrative judge may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit may submit that portion directly to the presiding administrative judge in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion for a protective order setting forth the ground therefor. A protective order may be granted for good cause shown.

§ 1023.312 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate, itemized statement shall be submitted for each professional firm or individual whose services are covered by the application. The statement should show the hours spent in connection with the Contract Disputes Act appeal by each individual, a description of the specific services performed, the rates at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The presiding administrative judge may require the applicant to provide vouchers, receipts, logs, or other substantiation for any fees or expenses claimed pursuant to § 1023.306 of this subpart.

§ 1023.313 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding, or, with permission of the Board for good cause shown, when the applicant has prevailed in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Board's final disposition of the proceeding.

(b) For purposes of paragraph (a) of this section, final disposition means the date on which a decision or order disposing of the merits of the proceeding or any other complete resolution of the proceeding, such as a settlement or voluntary dismissal, becomes final and unappealable.

(c) If reconsideration of a decision is sought as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy. When the United States appeals the underlying merits of a covered proceeding to a court, no decision on an application for fees and other expenses in connection with that proceeding shall be made until a final and